

EXHIBIT 68

1 VOLUME: I
2 PAGES: 1 to 148
3 EXHIBITS: 9 to 10

4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6 OAKLAND DIVISION

7 Civil Action No. 4:18-cv-06753-PJH

8 In Re:)
9 RIPPLE LABS, INC.)
10 LITIGATION)
11 -----)
12 This Document Relates To:)
13 ALL ACTIONS)
14)

15 VIDEOTAPED DEPOSITION OF STEVEN P.
16 FEINSTEIN, called as a witness on behalf of
17 the Defendants, pursuant to the applicable
18 provisions of the Federal Rules of Civil
19 Procedure, before Jeanette N. Maracas,
20 Registered Professional Reporter and Notary
21 Public in and for the Commonwealth of
22 Massachusetts, at the Offices of Morgan,
23 Lewis & Bockius, One Federal Street, Boston,
24 Massachusetts, on Friday, January 20, 2023,
25 commencing at 9:41 a.m.

1 APPEARANCES:

2
3 SUSMAN GODFREY, LLP
4 By: Nicholas N. Spear, Esq.
5 1900 Avenue of the Stars
6 Los Angeles, CA 90067
7 For the Lead Plaintiff.
8 Nspear@susmangodfrey.com
9

10 KING & SPALDING, LLP
11 By: Andrew Michaelson, Esq.
12 By: Luke N. Roniger, Esq. (Texas)
13 By: Jared Lax, Esq. (via Zoom)
14 1185 Avenue of the Americas
15 New York, NY 10036
16 For the Defendants.
17 Amichaelson@kslaw.com
18 Lroniger@kslaw.com
19
20 Shawn Budd, Videographer.
21
22 ALSO PRESENT VIA ZOOM:
23
24 Ana Guardado, Esq., Ripple Labs, Inc.
25

1 of some debate that has, in my opinion, 10:59:19	1 methodology? 11:02:24
2 no bearing on my opinions. It's not 10:59:21	2 A. Yes. 11:02:25
3 something I wrote about in my report or 10:59:23	3 Q. Does that methodology need to take into 11:02:25
4 expressed as an opinion. There are 10:59:26	4 account the contractual terms that are 11:02:28
5 representations and allegations from both 10:59:34	5 expressed in the bilateral contract? 11:02:31
6 sides in this case about what XRP was 10:59:37	6 A. Just the prices and the quantities and the 11:02:33
7 used for and how it would be used and why 10:59:41	7 times. Prices, quantities, the form of 11:02:35
8 it had value, whether the ledger was 10:59:45	8 the consideration, the time the transaction 11:02:39
9 centralized or decentralized, for example, 10:59:47	9 took place is all that you would need. 11:02:41
10 but none of that had any bearing on my 10:59:51	10 Q. So you need information contained in the 11:02:43
11 opinions. 10:59:53	11 contract to perform that calculation, 11:02:52
12 Q. So whether XRP has utility or not have any 10:59:54	12 correct? 11:02:55
13 bearing on your opinion? 11:00:05	13 MR. SPEAR: Objection. 11:02:55
14 MR. SPEAR: Objection, scope. 11:00:06	14 A. No, just the standard facts and details 11:02:57
15 A. Well, my opinion as spelled out in this 11:00:07	15 that describe any transaction, the same 11:02:59
16 report is that there's a common method for 11:00:10	16 common information that would commonly be 11:03:01
17 computing damages for all class members. 11:00:14	17 supplied by any class member for purposes 11:03:04
18 The common method is consistent with 11:00:19	18 of calculating that class member's damages. 11:03:07
19 plaintiff's theory of liability, and I lay 11:00:22	19 Q. Could the contract, though, supply, for 11:03:10
20 out what that method is. That is really 11:00:27	20 example, the price? 11:03:12
21 what I wrote about in this report, and so 11:00:33	21 A. Like I said, price would need to be known. 11:03:15
22 specific idiosyncrasies of XRP versus 11:00:37	22 In any damage calculation in any class action 11:03:18
23 other crypto digital assets did not matter. 11:00:41	23 litigation, you need to know prices. 11:03:21
24 As I sit here now, that's my thinking. 11:00:46	24 Sometimes you -- my understanding is that 11:03:26
25 Q. Sitting here today, do you have an 11:00:49	25 prices, price data for a claimant's 11:03:31
Page 50	
Page 52	
1 understanding as to whether a use of XRP 11:00:58	1 transactions is supplied by the claimant 11:03:36
2 could impact calculation of profit or 11:01:06	2 to the claims administrator, and whether 11:03:38
3 loss made by someone who owns it? 11:01:11	3 that price is documented in an exchange or 11:03:42
4 A. Well, it could certainly impact the profit 11:01:16	4 brokerage confirmation versus some other 11:03:48
5 or loss that was realized, but it would 11:01:18	5 form doesn't matter for purposes of applying 11:03:52
6 not impact the formula used for calculating 11:01:20	6 the formula. 11:03:57
7 the profit or loss and the damages. 11:01:23	7 Q. So it sounds like you have in mind a claims 11:03:58
8 Q. Sitting here today, do you know whether 11:01:26	8 process where the claimant would come forward 11:04:11
9 XRP is traded pursuant to any bilateral 11:01:32	9 with the inputs needed to, certain to your 11:04:14
10 contracts? 11:01:40	10 methodology, to your formula to determine 11:04:19
11 MR. SPEAR: Objection to form. 11:01:41	11 profit or loss, is that correct? 11:04:23
12 A. What do you mean by "bilateral contracts"? 11:01:42	12 A. That's typically how damages are ultimately 11:04:26
13 Q. A contract between two parties to buy or 11:01:47	13 calculated in a class action securities case. 11:04:28
14 sell an asset. 11:01:49	14 Q. So turning to Exhibit 10 here, your report, 11:04:38
15 A. Some trading took place that way, is my 11:01:50	15 I'd refer you to Page 4, you express your 11:04:50
16 understanding. 11:01:54	16 conclusion which is I think what you're 11:04:54
17 Q. So you are aware that some XRP exchanged 11:01:54	17 referring to, you opine here on Paragraph 16, 11:04:58
18 hands pursuant to bilateral contracts? 11:01:59	18 Page 4, the damages can be computed using 11:05:03
19 A. Well, we usually call that in finance an 11:02:03	19 a common methodology for all class members 11:05:11
20 over-the-counter transaction, and my 11:02:05	20 and the common classwide methodology for 11:05:16
21 understanding is there were some 11:02:07	21 determining damages for all XRP purchasers 11:05:21
22 over-the-counter transactions. 11:02:09	22 involves the straightforward application of 11:05:26
23 Q. Where XRP is exchanged pursuant to an 11:02:12	23 statutory arithmetic formulas? 11:05:30
24 over-the-counter transaction, can profit or 11:02:19	24 A. Yes. 11:05:34
25 loss be calculated pursuant to a common 11:02:20	25 Q. Sir, are you opining -- you're opining that 11:05:35
Page 51	
Page 53	

14 (Pages 50 - 53)

1	damages can be computed using a common	11:05:47	1	interest rate should be applied.	11:08:42
2	methodology, correct?	11:05:51	2	Q. Anything else?	11:08:44
3	A. Yes.	11:05:51	3	A. The formula is on Page 5. Those are the	11:08:50
4	Q. Are you opining that they can be computed	11:05:52	4	arguments of the formula that we just	11:08:50
5	using common evidence?	11:05:56	5	covered, so no.	11:08:56
6	A. I think "evidence" has a specific legal	11:05:58	6	Q. You mentioned that you need information as	11:08:56
7	meaning, and I'm not a lawyer. So if you	11:06:00	7	to whether there had been a sale. What did	11:08:59
8	mean data, that the same data, the same	11:06:05	8	you mean by that?	11:09:02
9	type of data is needed from each claimant,	11:06:11	9	A. Well, you would need to know. I mean, the	11:09:02
10	that's true, the same type of data, and I	11:06:13	10	class members are people who purchased and	11:09:04
11	mentioned already what that data would be.	11:06:17	11	then sold XRP and sustained a loss. These	11:09:08
12	"Evidence" is a legal term, that I can answer	11:06:20	12	are the proposed class members, or those	11:09:12
13	the question if you explain it better.	11:06:22	13	who still own XRP, they purchased it and	11:09:16
14	Q. Got it. Well, I guess what I'm hearing you	11:06:24	14	still own it. So notice that Paragraph 19	11:09:19
15	say is that the claimant would need to come	11:06:28	15	has a formula for one and 20 has got the	11:09:23
16	forth with the information concerning their	11:06:30	16	adaptation of that same formula for the	11:09:28
17	purchase or sale in order for the calculation	11:06:32	17	other, so you need to know whether they	11:09:30
18	to be run?	11:06:36	18	still own XRP or not.	11:09:32
19	A. That's one way to do it. There are other	11:06:37	19	Q. I see. So the information as to whether	11:09:33
20	ways to calculate damages, but to apply the	11:06:39	20	there has been a sale is important to know	11:09:40
21	common formula that's in my report, one would	11:06:42	21	which, whether they're in Paragraphs 19 or	11:09:43
22	need price and quantity data for purchases	11:06:45	22	20?	11:09:45
23	and sales, if there was a sale for anybody	11:06:50	23	A. Right.	11:09:48
24	whose damages are going to be calculated,	11:06:56	24	Q. Okay. And then you said you would need to	11:09:48
25	so it's common data and it's common formulas	11:06:59	25	know the form of consideration paid. What	11:09:50
Page 54			Page 56		
1	that are used.	11:07:03	1	<u>did you mean by that?</u>	11:09:52
2	Q. So you need the price data and you need	11:07:03	2	<u>A. Was Bitcoin tendered for the XRP or was</u>	11:09:53
3	the quantity data?	11:07:10	3	<u>it Tether or U.S. dollars, and you need to</u>	11:10:01
4	A. Right, how much did the person pay and	11:07:11	4	<u>know that so that you can translate the</u>	11:10:03
5	when did they pay it and how much XRP did	11:07:15	5	<u>consideration, you can value the</u>	11:10:04
6	they receive, and the same thing on the	11:07:21	6	<u>consideration at the time of the</u>	11:10:06
7	sale, if there was a sale, or we would need	11:07:24	7	<u>transactions.</u>	11:10:07
8	to know that there was no sale.	11:07:32	8	<u>Q. If someone paid Bitcoin, used Bitcoin to</u>	11:10:08
9	Q. Is any other data needed aside from the	11:07:34	9	<u>purchase XRP, wouldn't the value of the</u>	11:10:17
10	price data and quantity data?	11:07:38	10	<u>consideration paid be the amount of Bitcoin</u>	11:10:22
11	A. I said price data, price, quantity, both at	11:07:40	11	<u>they paid for the XRP?</u>	11:10:25
12	the time of sale and the time, time of	11:07:45	12	<u>A. It would be the value of the Bitcoin paid.</u>	11:10:27
13	purchase and time of sale information as to	11:07:47	13	<u>Q. Why not just the -- so the value of the</u>	11:10:29
14	whether or not there was a sale because	11:07:50	14	<u>Bitcoin?</u>	11:10:32
15	there may not have been, the form of the	11:07:53	15	<u>A. The formula, the statute says consideration</u>	11:10:34
16	consideration paid. That's it. Wait.	11:07:57	16	<u>with interest thereon. The word</u>	11:10:37
17	Right, that's it. That's what's in the	11:08:09	17	<u>"consideration" I guess can either mean</u>	11:10:42
18	formula.	11:08:11	18	<u>the form of the consideration or the value</u>	11:10:45
19	Again, if there was -- the example	11:08:13	19	<u>of the consideration, and I think from the</u>	11:10:46
20	I gave in the interrogatory did not apply	11:08:18	20	<u>context it's pretty clear that it's the</u>	11:10:47
21	interest that could have been earned, the	11:08:25	21	<u>value of the consideration, so that would</u>	11:10:50
22	opportunity interest on the consideration,	11:08:27	22	<u>be dollars, how many dollars were those</u>	11:10:52
23	but if one were to include the interest, you	11:08:31	23	<u>Bitcoin worth at the time the XRP was</u>	11:10:54
24	would also need guidance from the court or	11:08:34	24	<u>purchased.</u>	11:10:57
25	agreement among the parties as to what	11:08:40	25	Q. Okay. So let's, we'll break this down a	11:10:58
Page 55			Page 57		

<p>1 little bit. It was helpful to hear your 11:11:04 2 explanation. 11:11:06 3 Going back to Paragraph 16, you 11:11:07 4 express that your opinion here relates to a 11:11:12 5 common classwide methodology for determining 11:11:16 6 damages for all XRP purchasers. What does 11:11:18 7 it mean to purchase XRP? 11:11:26</p> <p>8 MR. SPEAR: Objection to form. 11:11:28</p> <p>9 A. It's almost a philosophical question. To 11:11:32 10 pay a counterparty and receive XRP, quid pro 11:11:37 11 quo in exchange for that payment. 11:11:44</p> <p>12 Q. So if you receive XRP as a gift, are you a 11:11:51 13 purchaser of XRP? 11:11:59</p> <p>14 MR. SPEAR: Objection, calls for a 11:12:00 15 legal conclusion. 11:12:01</p> <p>16 A. I would have to say I don't know. That's a 11:12:03 17 legal determination. 11:12:06</p> <p>18 Q. Can your methodology apply to individuals 11:12:07 19 who obtained XRP via gift? 11:12:11</p> <p>20 A. I'm not sure. That's something I would have 11:12:22 21 to think about. 11:12:25</p> <p>22 Q. Do you have any understanding as to whether 11:12:26 23 Ripple has employees? 11:12:28</p> <p>24 A. I'm sure they do have employees. 11:12:32</p> <p>25 Q. To the extent a Ripple employee receives 11:12:34</p>	<p>1 a person who obtained XRP in exchange for 11:14:14 2 a tangible good? 11:14:19</p> <p>3 A. Yes. 11:14:20</p> <p>4 Q. Just to be clear on the scope of your 11:14:20 5 opinion, it sounds like it is not part of 11:14:35 6 the scope of your opinion who is or who 11:14:41 7 is not a purchaser of XRP? 11:14:43</p> <p>8 A. That's correct. 11:14:48</p> <p>9 Q. So you're not opining on who is or is not 11:14:48 10 a purchaser of XRP, correct? 11:14:54</p> <p>11 A. Correct. 11:14:56</p> <p>12 Q. Does your opinion encompass the 11:14:56 13 identification of people who are purchasers 11:15:01 14 of XRP? 11:15:05</p> <p>15 A. How is that different from the previous 11:15:06 16 question? 11:15:09</p> <p>17 Q. The first question is more of a conceptual 11:15:10 18 question of like categorically speaking, 11:15:15 19 who would count or not in the determination 11:15:18 20 of who is a purchaser of XRP. The second 11:15:20 21 is actually like identifying the class 11:15:21 22 members. 11:15:23</p> <p>23 A. No. I haven't been asked to identify class 11:15:24 24 members and nothing about that is expressed 11:15:26 25 in my report. 11:15:28</p>
<p style="text-align: right;">Page 58</p> <p>1 XRP as a form of their compensation, are 11:12:37 2 they a purchaser of XRP? 11:12:43</p> <p>3 MR. SPEAR: Objection, calls for 11:12:45 4 a legal conclusion. 11:12:46</p> <p>5 A. Again, that does sound like -- the answer 11:12:47 6 to that question must be covered somewhere 11:12:50 7 in the law, and I'm not a lawyer. I can 11:12:53 8 answer economic questions. I don't think 11:12:57 9 that is an economic question, so I think 11:13:00 10 I should just say I don't know for sure. 11:13:03 11 I don't want to say, give an answer that's 11:13:04 12 contrary to established law, case law or 11:13:06 13 statute. I think the case law and statute 11:13:10 14 should speak for itself and legal experts 11:13:12 15 can decide that. 11:13:14</p> <p>16 Q. Can the common methodology that you propose 11:13:15 17 in your opinion be applied to those who 11:13:20 18 acquire XRP as compensation for their work? 11:13:24</p> <p>19 A. I think it can. 11:13:28</p> <p>20 Q. Do you have an understanding as to whether 11:13:31 21 someone could sell a tangible good like a 11:13:46 22 cup of coffee in exchange for XRP? 11:13:51</p> <p>23 A. I think that's possible. 11:13:56</p> <p>24 Q. Can your common methodology be used to 11:14:06 25 calculate the gain or loss experienced by 11:14:09</p>	<p>1 Q. Okay. Does your opinion encompass price 11:15:29 2 correlation between XRP and any other 11:15:35 3 digital asset? 11:15:37</p> <p>4 A. What do you mean by "correlation"? 11:15:39</p> <p>5 Q. Whether the price or value of XRP is 11:15:41 6 correlated with movements in prices of 11:15:44 7 other digital assets. 11:15:46</p> <p>8 A. I have expressed that to apply the formula, 11:15:48 9 one should convert whatever the form of 11:15:53 10 the consideration was to the value of the 11:15:57 11 consideration. So exchange rates and 11:15:59 12 valuations are relevant to apply the common 11:16:04 13 methodology commonly for all class members, 11:16:09 14 but correlation usually means movement 11:16:12 15 over time, and that I haven't expressed 11:16:15 16 anything about movement over time. 11:16:18</p> <p>17 Q. Okay. Yes, that's what I was asking about, 11:16:20 18 whether the price of XRP correlates over 11:16:24 19 time with the price of digital assets, not 11:16:27 20 something that's the subject of your opinion, 11:16:31 21 correct? 11:16:32</p> <p>22 A. Say that again, please? 11:16:33</p> <p>23 Q. It's fair to say that your opinion does not 11:16:35 24 encompass whether the price of XRP correlates 11:16:40 25 with the price of any other digital asset 11:16:44</p>

Page 59

Page 61

16 (Pages 58 - 61)

<p>1 of XRP, that you would need to see the 01:26:38 2 contract in order to calculate that 01:26:43 3 purchaser's gain or loss? 01:26:46 4 MR. SPEAR: Objection, incomplete 01:26:48 5 hypothetical. Objection, calls for 01:26:49 6 speculation. 01:26:51 7 A. I really think my answer has to be I don't 01:26:52 8 know. It can. It might not. I can imagine 01:26:59 9 hypotheticals where it matters, the details 01:27:03 10 of the contract, and I can imagine 01:27:04 11 hypotheticals where it doesn't or I wouldn't. 01:27:07 12 If the contract -- certainly it's always 01:27:15 13 possible using publicly available data to 01:27:23 14 calculate the value of the XRP that's being 01:27:27 15 conveyed at a particular point in time. 01:27:30 16 Whether there's a contract that includes 01:27:36 17 other transactions simultaneously, like some 01:27:37 18 sort of put option, might make a difference 01:27:41 19 or might not in terms of measuring 01:27:45 20 consideration paid and value received. 01:27:47 21 Q. So referring to your formula in Paragraph 19, 01:27:51 22 you start with a dollar amount paid at time 01:27:58 23 of purchase, you add interest income earned 01:28:01 24 at an appropriate interest rate and then you 01:28:06 25 subtract dollar amount received at time of 01:28:08</p>	<p>1 to that situation. 01:29:16 2 A. You calculate how much was paid for the 01:29:19 3 XRP, not how much was paid for the option 01:29:21 4 on the XRP. 01:29:26 5 Q. And why is that? 01:29:27 6 A. Because this person is buying two different 01:29:28 7 things, XRP tokens as well as an option 01:29:31 8 in XRP tokens. If I want to find out how 01:29:35 9 much they're paying for the XRP tokens 01:29:39 10 themselves, I've got to exclude how much 01:29:42 11 they're paying for the options. 01:29:45 12 Q. So if that purchaser were then to sell 01:29:47 13 XRP at a loss and receives some money from 01:29:50 14 the contractual counterparty thereafter, 01:29:54 15 you wouldn't offset that purchaser's loss 01:29:56 16 based on the payment they received from the 01:30:01 17 counterparty following their sale? 01:30:03 18 MR. SPEAR: Objection, incomplete 01:30:03 19 hypothetical. Objection, calls for 01:30:04 20 speculation. 01:30:06 21 A. These seem to be unusual aberrant 01:30:07 22 hypotheticals that might take some analysis. 01:30:11 23 but it's not a different methodology. We're 01:30:17 24 still calculating how much was paid and how 01:30:20 25 much was received and the difference is the 01:30:22</p>
<p style="text-align: right;">Page 114</p> <p>1 sale, correct? 01:28:11 2 A. Right. 01:28:12 3 Q. What if the contract called for that seller 01:28:13 4 to receive some additional dollar amount 01:28:15 5 later in time -- 01:28:20 6 MR. SPEAR: Objection. 01:28:21 7 Q. -- would that factor into --would it be 01:28:21 8 appropriate to factor in that subsequent 01:28:24 9 payment into that person's gain or loss? 01:28:26 10 MR. SPEAR: Objection, incomplete 01:28:30 11 hypothetical. Objection, calls for 01:28:31 12 speculation. 01:28:33 13 A. I'm trying to mentally picture this contract 01:28:33 14 you're describing. Can you say it again? 01:28:36 15 Q. Yes. Assume there's a contract pursuant 01:28:42 16 where someone buys XRP, but the contract 01:28:46 17 provides that if they sell for a loss or a 01:28:50 18 loss of certain magnitude, they'll be made 01:28:53 19 whole to some degree. 01:28:55 20 A. So this person is buying XRP and they're 01:28:58 21 also buying a put option on the XRP. That's 01:29:02 22 how you would analyze that from a financial 01:29:07 23 perspective. And you're asking how would I 01:29:09 24 calculate how much was paid for the XRP? 01:29:12 25 Q. I'm asking how this methodology would apply 01:29:14</p>	<p style="text-align: right;">Page 116</p> <p>1 loss. If there's some unusual details of 01:30:24 2 the transactions that might require some 01:30:30 3 additional analysis from an economist or 01:30:34 4 from the claims administrator, but if the 01:30:38 5 sale is the result of the exercise of a 01:30:43 6 put option, as I sit here now, it seems to 01:30:46 7 me that the sale price would be the strike 01:30:49 8 price of that put option and we would know 01:30:52 9 how much this person received when selling 01:30:57 10 his or her XRP. 01:31:02 11 Q. Your formula here in Paragraph 19 purports 01:31:06 12 to calculate damages for class members who 01:31:15 13 purchased and later sold XRP? 01:31:18 14 A. Right. 01:31:19 15 Q. It sets out three inputs, the dollar amount 01:31:20 16 paid at time of purchase, interest thereon 01:31:23 17 and the amount received at time of sale? 01:31:27 18 A. Right. 01:31:29 19 Q. What I'm suggesting, I'm wondering how this 01:31:29 20 would apply to a situation where a contract 01:31:34 21 provided for some payment to the seller 01:31:36 22 after the time of sale. That is not 01:31:39 23 encompassed by this methodology, correct? 01:31:41 24 MR. SPEAR: Objection, calls for 01:31:44 25 speculation. Objection, incomplete 01:31:46</p>

Page 115

Page 117

30 (Pages 114 - 117)

1 hypothetical. Go ahead.	01:31:48	1 to the claim form, is this all the	01:34:05
2 A. So you're saying there's a contract that	01:31:49	2 compensation you received for selling this	01:34:07
3 says the person sells it and then at a later	01:31:51	3 asset or did you receive additional	01:34:09
4 date is given additional money pursuant to	01:31:55	4 compensation somewhere else in some other	01:34:11
5 a put option? Is that what you're saying?	01:31:59	5 way. I think this is the job the claims	01:34:15
6 Q. You're the one describing it as a put option.	01:32:01	6 administrators are comfortable performing	01:34:18
7 I have not described it as a put option.	01:32:03	7 and typically do.	01:34:21
8 A. Well, locking in that you can't sell for	01:32:06	8 Q. If a claims administrator did that, would	01:34:21
9 less than what you paid for it is modeled	01:32:09	9 that claims administrator be deviating from	01:34:25
10 as a put option, so I think the proceeds	01:32:12	10 the formula laid out in Paragraph 19?	01:34:27
11 from the market sale, plus the -- I would	01:32:18	11 A. Not at all. Well, only to the extent that	01:34:31
12 have to think about that. I'm not sure	01:32:25	12 it says at time of sale. So what I wrote	01:34:33
13 whether you include the amount they receive	01:32:27	13 here is what applies to the -- what you're	01:34:38
14 in the put option or not as part of the	01:32:28	14 doing is an exercise to try to look for	01:34:44
15 sales proceeds. I'd have to think about	01:32:32	15 hypotheticals that possibly don't even exist	01:34:48
16 that, but we're still trying to calculate how	01:32:33	16 that would add complexity to the formula.	01:34:53
17 much was received from the sale.	01:32:37	17 And if these hypotheticals do exist, it's	01:34:56
18 Q. Is it fair to say, though, that in order to	01:32:37	18 easy to modify this formula so it's all	01:34:59
19 apply this methodology that you put forth	01:32:40	19 common for all class members, but takes into	01:35:02
20 in Paragraph 19, we need to look at the	01:32:43	20 account very peculiar complexities such as	01:35:05
21 contract?	01:32:45	21 you received your payment two different,	01:35:08
22 MR. SPEAR: Objection, incomplete	01:32:47	22 on two different dates or multiple dates.	01:35:10
23 hypothetical, calls for speculation.	01:32:48	23 Q. What is your basis for expressing that	01:35:13
24 A. I think the trading records would suffice	01:32:50	24 this hypothetical that I'm describing is	01:35:18
25 just as they would for any other investor.	01:32:52	25 aberrant or so unusual?	01:35:20

Page 118

Page 120

1 The trading records say how much he or	01:32:56	1 A. Because the whole idea of exchange trading	01:35:23
2 she received when they sold the XRP and	01:33:00	2 or trading even on the ledger is that	01:35:28
3 then how much they received pursuant to	01:33:03	3 you're trading in a fungible manner, that	01:35:32
4 the put option. I think that would be in	01:33:05	4 your trades are just like other people's	01:35:35
5 the trading records, or that could certainly	01:33:07	5 trades and they're standardized, the terms	01:35:38
6 be a claims administrator question, did you	01:33:09	6 are standardized. It's only, you know --	01:35:43
7 receive additional compensation subsequent	01:33:12	7 even over-the-counter trades are usually	01:35:47
8 pursuant to that sale. That's the kind of	01:33:16	8 standardized, but over-the-counter it's	01:35:49
9 thing claims administrators handle all the	01:33:19	9 possible to have customized features, but	01:35:52
10 time.	01:33:22	10 because they're customized, over-the-counter	01:35:58
11 Q. Isn't what your opinion here expressing	01:33:23	11 trading in a security tends to be much,	01:36:00
12 is that the claims administrator would	01:33:23	12 much lower in volume, if it exists at all,	01:36:05
13 follow this formula?	01:33:29	13 but in a customized way. Standardization	01:36:09
14 A. Right. And to measure the amount received	01:33:29	14 allows for marketplaces to handle volume,	01:36:13
15 for the sale, I would think for the vast	01:33:32	15 so the volume will predominantly be from	01:36:17
16 majority of class members would be a	01:33:37	16 standardized trades.	01:36:20
17 straightforward reading of the confirmation	01:33:38	17 Q. Do you have any basis to form a view as	01:36:22
18 ticket or the trading records for the small	01:33:42	18 to whether a use of a digital asset might	01:36:27
19 minority or one-offs that might have received	01:33:47	19 impact the frequency with which these types	01:36:33
20 compensation in a different way. That could	01:33:51	20 of bilateral agreements might exist?	01:36:37
21 be a question that the claims administrator	01:33:54	21 MR. SPEAR: Objection, form.	01:36:41
22 asked, did you receive additional	01:33:54	22 A. I didn't entirely understand your question.	01:36:44
23 compensation for the sale. It could be a	01:33:54	23 Q. You've expressed a view that -- I was	01:36:47
24 straightforward question asked by the claims	01:33:54	24 describing a contract before that had what	01:36:52
25 administrator in a questionnaire attached	01:34:02	25 you characterized as put option and you	01:36:55

Page 119

Page 121

1	answered.	02:10:13		1	A. Meaning that for whichever way you interpret the word "consideration," the conclusion in Paragraph 16 won't change. The formulas in 19 and 20 might in a very straightforward way, but the conclusion in Paragraph 16 would not change.	02:12:48		
2	A. Not specifically, but generally I would say yes, because I did consider -- that is a transaction and I did consider potential class members that would be receiving -- well, receiving XRP and then providing XRP in the course of some economic transaction.	02:10:15		2	Q. Okay. And with respect to how you propose to calculate the value of the consideration paid, it's your opinion that if someone used Bitcoin, that that should be converted to U.S. dollars using the Bloomberg rate as of 4:00 p.m. on the date of the transaction?	02:12:51		
3		02:10:20		3	MR. SPEAR: Objection, misstates prior testimony.	02:12:53		
4		02:10:25		4	A. I explained that you could do that and that would be a reasonable approach, but I haven't determined yet whether that's the only approach or best approach. That would certainly be a reasonable way to proceed.	02:12:58		
5		02:10:29		5	Q. What if Ethereum was used to purchase XRP? What would you use to translate Ethereum into U.S. dolalrs?	02:13:01		
6		02:10:33		6	25 A. That database exists, too, database of Ethereum exchange rates.	02:13:05		
7		02:10:39		7	Q. On Bloomberg?	02:13:05		
8	Q. Okay. So in 19 and 20, both of them, both formulas you start with a dollar amount paid at time of purchase, and you're saying that applies to -- I'll just strike that. So is it fair to say that in Paragraphs 19 --	02:10:43		8	14 A. I believe so.	02:13:11		
9		02:10:49		9	Q. What if Tether was used?	02:13:14		
10		02:10:52		10	15 A. I know that the Tether exchange rates do exist on Bloomberg. I looked them up.	02:13:18		
11		02:10:58		11	16 Q. And what if someone used, for example, a foreign currency like a Swiss franc and went directly into XRP, then what would you use?	02:13:22		
12	it fair to say that in Paragraphs 19 --	02:11:04		12	17 A. Using exchange rates to convert the form of the consideration to the value of the consideration in dollars is a straightforward arithmetic exercise that would be common for all class members.	02:13:24		
13	strike that.	02:11:11		13	18 Q. Do you have an understanding sitting here today of how many different types of assets can be transferred for XRP?	02:13:28		
14	In Paragraph 17 you've got the statutory formula for damages which uses the term "consideration." You covered consideration paid for such security with interest thereon. Do you see that?	02:11:13		14	19 A. Yes.	02:13:30		
15		02:11:14		15	20 Q. What if Ethereum was used to purchase XRP? What would you use to translate Ethereum into U.S. dolalrs?	02:13:31		
16		02:11:18		16	21 A. That database exists, too, database of Ethereum exchange rates.	02:13:36		
17		02:11:22		17	22 Q. On Bloomberg?	02:13:37		
18		02:11:24		18	23 A. I believe so.	02:13:40		
19	A. Paragraph 17?	02:11:27		19	24 Q. What if Tether was used?	02:13:42		
20	Q. Yes, of your report.	02:11:27		20	25 A. I know that the Tether exchange rates do exist on Bloomberg. I looked them up.	02:13:44		
21	A. Yes.	02:11:30		21	14 Q. And what if someone used, for example, a foreign currency like a Swiss franc and went directly into XRP, then what would you use?	02:13:49		
22	Q. Do you see where it says that?	02:11:30		22	15 A. Using exchange rates to convert the form of the consideration to the value of the consideration in dollars is a straightforward arithmetic exercise that would be common for all class members.	02:13:53		
23	A. Yes.	02:11:35		23	16 Q. Do you have an understanding sitting here today of how many different types of assets can be transferred for XRP?	02:13:58		
24	Q. We discussed this, you're interpreting the term "consideration" to mean the value paid	02:11:36		24	17 A. Yes.	02:13:58		
25		02:11:40		25	18 Q. How many?	02:14:00		
			Page 138			19 A. It's many. That's the nature of digital assets, that that's also why there are databases that provide matrices of exchange rates.	02:14:00	
						20 Q. Do you know if, for example, Bloomberg provides an exchange rate for each of the assets that can be used to purchase or sell	02:14:46	
						21	21 Q. Okay.	02:14:50
						22	22 A. I believe so.	02:14:54
						23	23 Q. What if Tether was used?	02:15:01
						24	24 A. I know that the Tether exchange rates do exist on Bloomberg. I looked them up.	02:15:05
						25	25 Q. Do you have an understanding sitting here today of how many different types of assets can be transferred for XRP?	02:15:07
						Page 140		

1 COMMONWEALTH OF MASSACHUSETTS)
2 SUFFOLK, SS.)
3
4

5 I, Jeanette Maracas, Registered
6 Professional Reporter and Notary Public in
and for the Commonwealth of Massachusetts,
7 do hereby certify that there came before me
on the 20th day of January, 2023, at 9:41
a.m., the person hereinbefore named, who
8 was by me duly sworn to testify to the truth
and nothing but the truth of his knowledge
touching and concerning the matters in
9 controversy in this cause; that he was
thereupon examined upon his oath, and his
examination reduced to typewriting under my
10 direction; and that the deposition is a true
record of the testimony given by the witness.
11
12

13 I further certify that I am neither
attorney or counsel for, nor related to or
employed by, any attorney or counsel employed
14 by the parties hereto or financially
interested in the action.
15

16 In witness whereof, I have hereunto
set my hand this 25th day of January, 2023.
17
18
19



20 Notary Public
My commission expires 7/29/27
21
22
23
24
25